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PRE-TRIAL CHAMBER II

Before: Judge Ekaterina Trendafilova, Single Judge

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

**IN THE CASE OF
*THE PROSECUTOR v. BOSCO NTAGANDA***

Confidential - Prosecution, Defence and VPRS only

**Prosecution's Observations on 203 Applications for Victim Participation in the
Pre-Trial Proceedings**

Source: Office of the Prosecutor

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

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Introduction

1. The Prosecution submits observations on 203 applications for victim participation, pursuant to rule 89(1) of the Rules of Procedure and Evidence ("Rules") and the Single Judge's "Decision Establishing Principles on the Victims' Application Process".¹ Based on its assessment, the Prosecution supports 202 applications to participate as victims in the proceedings and requests supplementary information in relation to one application.
2. The Prosecution notes that it relies in its assessment, in part, on the summary provided by the Victims Participation and Reparation Section ("VPRS") relating to the proof of identity and kinship of applicants whose identity documentation has not been transmitted to the Prosecution. Should the Single Judge determine, based on a review of the supporting documentation, that the identity of applicants or, where applicable, kinship between the applicants and their family members has not been sufficiently established, the applicants concerned should be requested to provide further information.

Confidentiality

3. The Prosecution files its observations as "Confidential - Prosecution, Defence and VPRS only" pursuant to regulation 23 *bis* (2) of the Regulations of the Court, in accordance with the Confidential Redacted version of the filing by the VPRS.

Procedural background

4. On 28 May 2013, the Single Judge ordered the parties to submit observations on victim applications within 14 days of their transmission by VPRS.²

¹ ICC-01/04-02/06-67.

² *Ibid*, page 21.

5. On 13 September 2013, the Registry provided the Prosecution with 29 unredacted victim applications.³ The parties submitted their observations on 1 October 2013.⁴
6. On 8 October 2013, the Registry provided the Prosecution with 172 unredacted victim applications.⁵ The parties submitted their observations on 24 October 2013.⁶
7. On 30 October 2013, the Registry provided the Prosecution with 258 unredacted victim applications.⁷ The parties submitted their observations on 15 November 2013.⁸
8. On 21 November 2013, the Registry provided the Prosecution with 363 unredacted victim applications.⁹ The parties submitted their observations on 9 December 2013.¹⁰
9. On 13 December 2013, the Registry provided the Prosecution with 160 unredacted victim applications.¹¹ The parties submitted their observations on 30 December 2013.¹²
10. On 10 January 2014, the Registry provided the Prosecution with 203 unredacted victim applications.¹³ On 13 January, the Single Judge ordered the parties to file their observations by 20 January 2014.¹⁴

³ ICC-01/04-02/06-106-Conf-Exp.

⁴ ICC-01/04-02/06-119-Conf, ICC-01/04-02/06-118-Conf.

⁵ ICC-01/04-02/06-122-Conf-Exp.

⁶ ICC-01/04-02/06-128-Conf, ICC-01/04-02/06-127-Conf.

⁷ ICC-01/04-02/06-132-Conf-Exp.

⁸ ICC-01/04-02/06-146-Conf, ICC-01/04-02/06-143-Conf.

⁹ ICC-01/04-02/06-154-Conf-Exp.

¹⁰ ICC-01/04-02/06-168-Conf, ICC-01/04-02/06-169-Conf.

¹¹ ICC-01/04-02/06-179-Conf-Exp.

¹² ICC-01/04-02/06-195-Conf, ICC-01/04-02/06-196-Conf.

¹³ ICC-01/04-02/06-200-Conf-Exp.

¹⁴ ICC-01/04-02/06-205.

11. On 15 January 2013, the Single Judge issued the “Decision on Victims’ participation at the Confirmation of Charges Hearing and in the Related Proceedings” granting victim status to 922 applicants, rejecting 48 applications and deferring 12.¹⁵

Legal criteria for victim participation in the proceedings

12. The Prosecution considers that victim participation before the Court is an essential feature of the Statute and the Rules as well as an important contribution to international justice. Under the Statute, victims are actors in the administration of international justice rather than its passive subjects. Their participation is a statutory right, not a privilege bestowed on a case-by-case basis.
13. The Prosecution supports victim participation when all statutory requirements are met. Consistent with its view of the unique and necessary perspective victims lend to the proceedings, the Prosecution supports a liberal approach in permitting applicants to amend or clarify incomplete applications, if possible.
14. According to the Appeals Chamber, a person has the right to participate as a victim in the proceedings under article 68(3) if (i) he/she qualifies as a victim pursuant to rule 85; and (ii) his/her personal interests are affected by the issues, legal or factual, raised in the proceedings at hand.¹⁶
15. With respect to the first requirement of article 68(3)—qualification as a victim under rule 85—the established jurisprudence of the Court provides that the following four criteria must be satisfied *prima facie* for victim status to be granted,¹⁷ regardless of the stage of the proceedings in which the applicants wish to participate: (i) the applicant must be a natural person as set forth in rule 85(a)

¹⁵ ICC-01/04-02/06-211.

¹⁶ See, e.g., ICC-01/04-556, para. 45; ICC-01/04-01/06-1335, para. 36.

¹⁷ See, e.g., ICC-02/05-01/07-58, para. 7; ICC-01/04-01/07-579, para. 67.

or an organisation or institution as set forth in rule 85(b); (ii) the applicant must have suffered harm; (iii) the crime from which the harm resulted must fall within the jurisdiction of the Court; and (iv) there must be a causal link between the crime and the harm.¹⁸

16. In reviewing applications, Chambers do generally not delve into the credibility of applicants' statements or require rigorous corroboration.¹⁹ Rather, Chambers "assess the applicants' statements first and foremost on the merits of their intrinsic coherence, as well as on the basis of the information otherwise available" to the Chamber.²⁰

17. The second requirement of article 68(3)—that the applicant's personal interests are affected by legal or factual issues raised in the proceedings at hand—is considered separately from the victim status.²¹ As indicated by the Appeals Chamber, "[c]lear examples of where the personal interests of victims are affected are when their protection is in issue and in relation to proceedings for reparations."²² "An assessment will need to be made in each case as to whether the interests asserted by victims do not, in fact, fall outside their personal interests and belong instead to the role assigned to the Prosecutor".²³

18. The established jurisprudence additionally requires that the harm suffered and the personal interests of the victim must be linked to the charges confirmed against the accused or, at earlier stages in the proceedings, the offences alleged in

¹⁸ See, e.g., ICC-01/04-556, para. 45; ICC-01/04-01/06-1335, para. 36.

¹⁹ See ICC-01/04-01/07-579, para. 67.

²⁰ ICC-01/04-01/07-579, para. 67, 132.

²¹ See, e.g., ICC-01/04-556, para. 45; ICC-01/04-101-tEN-Corr, para. 62 (indicating that "personal interests" requirement constitutes an additional criterion to be met by victims, over and above the victim status accorded them).

²² ICC-01/04-01/06-925, para. 28.

²³ *Ibid.*

the warrant of arrest or summons to appear or the document containing the charges.²⁴

19. The first step in the determination of whether the applicant is a “natural person” within the meaning of rule 85 is an inquiry into whether the applicant has provided adequate proof of identity. Chambers have recognised that a balance must be achieved between the need to establish an applicant’s identity with certainty, on the one hand, and the applicant’s personal circumstances, on the other. Bearing in mind that the chaotic circumstances present in a given situation may preclude applicants from obtaining or producing copies of official identity papers and to ensure that victims are not unfairly deprived of the opportunity to participate, Chambers have considered non-official identification documents or, in appropriate cases, a statement signed by two credible witnesses attesting to the identity of the applicant as being sufficient proof of identity.

20. Further, “when assessing whether an applicant has suffered harm as a result of the loss of a family member, the Court requires proof of the identity of the family member and of his or her relationship with the applicant.”²⁵

21. The Appeals Chamber has defined “harm” within the meaning of rule 85(a) as “loss, injury or damage”²⁶ and explained that cognisable harm include material, physical and psychological injuries.²⁷ The single most important requirement isolated by the Appeals Chamber for identifying “harm” is that the loss or injury must be suffered personally by the applicant.²⁸ A qualifying injury may be direct

²⁴ ICC-01/04-01/06-1432, paras. 2, 62-65 (“For the purposes of participation in the trial proceedings, the harm alleged by a victim and the concept of personal interests under article 68(3) of the Statute must be linked with the charges confirmed against the accused.”).

²⁵ ICC-02/05-02/09-147-Red, para. 6; see also ICC-02/04-179, paras. 35-38.

²⁶ ICC-01/04-01/06-1432, para. 31.

²⁷ ICC-01/04-01/06-1432, para. 32. See also ICC-02/04-164, para. 8 (treating “‘psychological trauma’ and ‘emotional harm’ as falling within the concept of ‘mental harm’”).

²⁸ ICC-01/04-01/06-1432, para. 32.

or indirect, so long as it is the applicant who experiences it.²⁹ Direct victims are those whose injury or loss is the “result of the commission of a crime within the jurisdiction of the Court,” while indirect victims are “those who suffer harm as a result of the harm suffered by the direct victims.”³⁰ Indirect harm can arise, *inter alia*, where persons endure psychological suffering or material deprivation when a family member is killed as a result of the crimes for which the Suspect is called to answer.³¹

Factual analysis of the applications

Natural persons, harm derived from crimes within the jurisdiction of the Court

22. All 203 applicants are natural persons acting on their own behalf.³² The 203 applicants have personally suffered direct and/or indirect physical, material and/or psychological harm. Their individual accounts sufficiently establish that the harm suffered resulted from crimes falling within the jurisdiction of the Court. The underlying acts attributed to the UPC constitute one or more of the following crimes charged in the Document Containing the Charges (“DCC”):³³ using, conscripting and enlisting children under the age of 15, direction of attacks against a civilian population, murder, pillaging, rape, sexual slavery, and forcible transfer of population, destruction of property and persecution.³⁴ Further, Pre-Trial Chamber II made specific findings regarding the incidents (crimes, dates and locations) common to these groups of applicants in its Decision on the application for the second warrant of arrest.³⁵

²⁹ ICC-01/04-01/06-1432, paras. 32, 34-35.

³⁰ ICC-01/04-01/06-1813, para. 44.

³¹ ICC-01/04-01/06-1813, paras. 50-51.

³² Even if the box “acting on behalf of a victim” was tagged in several applications, the facts described relate to the applicant him- or herself.

³³ ICC-01/04-02/06-203-AnxA, pages 56-60.

³⁴ Articles 7(1)(a), 7(1)(d), 7(1)(g)-1, 7(1)(g)-2, 7(1)(h), 8(2)(c)(i), 8(2)(e)(i), 8(2)(e)(v), 8(2)(e)(vi)-1 and 8(2)(e)(vi)-2, 8(2)(e)(vii), 8(2)(e)(viii), 8(2)(e)(xii) of the Statute.

³⁵ ICC-01/04-02/06-36-Red, paras. 43, 61.

Duplicate applications

23. According to the VPRS,³⁶ applicants a/00121/13,³⁷ a/00199/13,³⁸ a/00351/13,³⁹ a/00883/13,⁴⁰ a/01325/13,⁴¹ a/01326/13⁴² and a/01718/13⁴³ submitted two applications. The duplicate application has not been transmitted to the Prosecution. The Prosecution is therefore unable to compare the applications or assess any impact the different applications may have on the criteria to establish participation as a victim. The Prosecution notes, however, that the discrepancies that were flagged by the VPRS appear to be minor.

Indirect harm suffered from murder of extended family members

24. Applicant a/00351/13⁴⁴ has suffered indirect harm as a result of the murder of his nephews. This applicant has provided a letter from local authorities that confirms his kinship with the deceased persons. The applicant claims mental suffering because of the murder of the two children he had custody of and who grew up with him. The Prosecution considers that personal harm has been sufficiently established given the proximity between the applicant and his deceased family members.⁴⁵

Dates of the crimes

25. The Prosecution notes that applicants a/00018/13,⁴⁶ a/00261/13,⁴⁷ a/00323/13,⁴⁸ a/00351/13,⁴⁹ a/01018/13,⁵⁰ a/01090/13,⁵¹ a/01329/13,⁵² a/01332/13,⁵³ a/01334/13,⁵⁴

³⁶ ICC-01/04-02/06-200-Conf-AnxA.

³⁷ ICC-01/04-02/06-200-Conf-AnxB-4-Red.

³⁸ ICC-01/04-02/06-200-Conf-AnxB-6-Red.

³⁹ ICC-01/04-02/06-200-Conf-AnxB-18-Red.

⁴⁰ ICC-01/04-02/06-200-Conf-AnxB-58-Red.

⁴¹ ICC-01/04-02/06-200-Conf-AnxB-79-Red.

⁴² ICC-01/04-02/06-200-Conf-AnxB-80-Red.

⁴³ ICC-01/04-02/06-200-Conf-AnxB-196-Red.

⁴⁴ ICC-01/04-02/06-200-Conf-AnxB-18-Red.

⁴⁵ See ICC-01/04-02/06-211-Conf, para. 49.

⁴⁶ ICC-01/04-02/06-200-Conf-AnxB-3-Red.

a/01338/13,⁵⁵ a/01341/13,⁵⁶ a/01353/13,⁵⁷ a/01357/13,⁵⁸ a/01358/13,⁵⁹ a/01364/13,⁶⁰ a/01366/13,⁶¹ a/01370/13,⁶² a/01371/13⁶³ and a/01372/13⁶⁴ indicate that the events occurred in the beginning of 2003, in February 2003, between January and February 2003 or between February and March 2003. They also all refer to operation “*Shika na mukono*”. Applicants a/00298/13,⁶⁵ a/00314/13,⁶⁶ a/00916/13,⁶⁷ a/00954/13,⁶⁸ a/00995/13,⁶⁹ a/01278/13,⁷⁰ a/01328/13,⁷¹ a/01330/13,⁷² a/01331/13,⁷³ a/01333/13,⁷⁴ a/01336/13,⁷⁵ a/01337/13,⁷⁶ a/01339/13,⁷⁷ a/01340/13,⁷⁸ a/01360/13,⁷⁹ a/01363/13,⁸⁰ a/01463/13,⁸¹ a/01498/13⁸² and a/01510/13⁸³ indicate that the events occurred in 2003, during operation “*Shika na mukono*”. According to the Prosecution’s information, this term was used by the UPC to designate the UPC attacks on Lipri, Bambu, Kobu and surrounding villages during the period of 17

⁴⁷ ICC-01/04-02/06-200-Conf-AnxB-8-Red.
⁴⁸ ICC-01/04-02/06-200-Conf-AnxB-13-Red.
⁴⁹ ICC-01/04-02/06-200-Conf-AnxB-18-Red.
⁵⁰ ICC-01/04-02/06-200-Conf-AnxB-64-Red.
⁵¹ ICC-01/04-02/06-200-Conf-AnxB-67-Red.
⁵² ICC-01/04-02/06-200-Conf-AnxB-82-Red.
⁵³ ICC-01/04-02/06-200-Conf-AnxB-85-Red.
⁵⁴ ICC-01/04-02/06-200-Conf-AnxB-87-Red.
⁵⁵ ICC-01/04-02/06-200-Conf-AnxB-91-Red.
⁵⁶ ICC-01/04-02/06-200-Conf-AnxB-94-Red.
⁵⁷ ICC-01/04-02/06-200-Conf-AnxB-106-Red.
⁵⁸ ICC-01/04-02/06-200-Conf-AnxB-110-Red.
⁵⁹ ICC-01/04-02/06-200-Conf-AnxB-111-Red.
⁶⁰ ICC-01/04-02/06-200-Conf-AnxB-117-Red.
⁶¹ ICC-01/04-02/06-200-Conf-AnxB-118-Red.
⁶² ICC-01/04-02/06-200-Conf-AnxB-122-Red.
⁶³ ICC-01/04-02/06-200-Conf-AnxB-123-Red.
⁶⁴ ICC-01/04-02/06-200-Conf-AnxB-124-Red.
⁶⁵ ICC-01/04-02/06-200-Conf-AnxB-11-Red.
⁶⁶ ICC-01/04-02/06-200-Conf-AnxB-12-Red.
⁶⁷ ICC-01/04-02/06-200-Conf-AnxB-61-Red.
⁶⁸ ICC-01/04-02/06-200-Conf-AnxB-62-Red.
⁶⁹ ICC-01/04-02/06-200-Conf-AnxB-63-Red.
⁷⁰ ICC-01/04-02/06-200-Conf-AnxB-70-Red.
⁷¹ ICC-01/04-02/06-200-Conf-AnxB-81-Red.
⁷² ICC-01/04-02/06-200-Conf-AnxB-83-Red.
⁷³ ICC-01/04-02/06-200-Conf-AnxB-84-Red.
⁷⁴ ICC-01/04-02/06-200-Conf-AnxB-86-Red.
⁷⁵ ICC-01/04-02/06-200-Conf-AnxB-89-Red.
⁷⁶ ICC-01/04-02/06-200-Conf-AnxB-90-Red.
⁷⁷ ICC-01/04-02/06-200-Conf-AnxB-92-Red.
⁷⁸ ICC-01/04-02/06-200-Conf-AnxB-93-Red.
⁷⁹ ICC-01/04-02/06-200-Conf-AnxB-113-Red.
⁸⁰ ICC-01/04-02/06-200-Conf-AnxB-116-Red.
⁸¹ ICC-01/04-02/06-200-Conf-AnxB-148-Red.
⁸² ICC-01/04-02/06-200-Conf-AnxB-178-Red.
⁸³ ICC-01/04-02/06-200-Conf-AnxB-189-Red.

February to 2 March 2003.⁸⁴ On this basis, the Prosecution submits that it has been sufficiently established that the crimes alleged occurred within the relevant time frame of the charges.

26. The Prosecution notes that applicants a/00006/13,⁸⁵ a/00241/13⁸⁶ and a/00346/13⁸⁷ indicate that the events occurred in February or between February and March 2003, without referring to operation “*Shika na mukono*”. Since the narrative of these applicants is consistent with the description of facts given by other applicants from the same victims groups, who provided more specific dates,⁸⁸ the Prosecution is of the view that it has been sufficiently established that the crimes alleged occurred within the relevant time frame of the charges.

Locations of the crimes

27. Applicant a/01278/13 claims to have been the victim of destruction of property and pillaging in RED during operation *Shika na mukono* (which the Prosecution considers to be in February 2003). The Single Judge has assessed that RF falls outside of the geographical frame of the charges in respect of crimes allegedly committed in February 2003. However, this applicant is also an alleged victim of forcible displacement as UPC soldiers had chased him *until* a village which is in the Walendu-Djatsi *collectivité*. The Prosecution is of the view that the crimes suffered fall into the geographical scope of the case as defined in the DCC.
28. Some applicants refer to locations for which the VPRS was able to confirm that they are the villages surrounding Lipri, Bambu or Kobu. When the VPRS was not able to confirm the proximity of the villages, the applicants have specified themselves the distances between the location of the crimes suffered and Lipri,

⁸⁴ See ICC-01/04-02/06-119-Conf, para. 18.

⁸⁵ ICC-01/04-02/06-200-Conf-AnxB-1-Red.

⁸⁶ ICC-01/04-02/06-200-Conf-AnxB-7-Red.

⁸⁷ ICC-01/04-02/06-200-Conf-AnxB-17-Red.

⁸⁸ ICC-01/04-02/06-211-Conf, para. 54.

Bambu or Kobu. These applicants further add that the crimes occurred during the operation “*Shika na mukono*”.

29. The Prosecution cannot confirm the location referred to by applicant a/01289/13.

The Prosecution proposes that the applicant be asked to provide supplementary information on the *collectivité* in which the harm was allegedly suffered.

30. The Prosecution submits that all applicants have sufficiently established the locations of the crimes, with the exception of applicant a/01289/13, for whom supplementary information is needed.

Proof of identity and kinship

31. The applications transmitted all bear the signature or thumbprint of the applicants. The identification documents have not been transmitted to the Prosecution. As such, the Prosecution has only had access to the analysis of completeness and sufficiency done by the VPRS.⁸⁹ According to the VPRS’s report, almost all applicants have provided voting cards as proof of identity and some provide an additional letter from local authorities as proof of identity and kinship. Applicants a/00573/13,⁹⁰ a/00576/13,⁹¹ a/00583/13,⁹² a/00587/13,⁹³ a/00688/13,⁹⁴ a/00705/13,⁹⁵ a/00711/13,⁹⁶ a/00713/13,⁹⁷ a/00714/13,⁹⁸ a/00736/13,⁹⁹ a/00737/13,¹⁰⁰ a/01090/13,¹⁰¹ a/01357/13,¹⁰² a/01361/13,¹⁰³ a/01362/13,¹⁰⁴ a/01364/13,¹⁰⁵

⁸⁹ ICC-01/04-02/06-200-Conf-AnxA.

⁹⁰ ICC-01/04-02/06-200-Conf-AnxB-23-Red.

⁹¹ ICC-01/04-02/06-200-Conf-AnxB-25-Red.

⁹² ICC-01/04-02/06-200-Conf-AnxB-26-Red.

⁹³ ICC-01/04-02/06-200-Conf-AnxB-27-Red.

⁹⁴ ICC-01/04-02/06-200-Conf-AnxB-33-Red.

⁹⁵ ICC-01/04-02/06-200-Conf-AnxB-35-Red.

⁹⁶ ICC-01/04-02/06-200-Conf-AnxB-37-Red.

⁹⁷ ICC-01/04-02/06-200-Conf-AnxB-38-Red.

⁹⁸ ICC-01/04-02/06-200-Conf-AnxB-39-Red.

⁹⁹ ICC-01/04-02/06-200-Conf-AnxB-44-Red.

¹⁰⁰ ICC-01/04-02/06-200-Conf-AnxB-45-Red.

¹⁰¹ ICC-01/04-02/06-200-Conf-AnxB-67-Red.

¹⁰² ICC-01/04-02/06-200-Conf-AnxB-110-Red.

¹⁰³ ICC-01/04-02/06-200-Conf-AnxB-114-Red.

a/01367/13,¹⁰⁶ a/01370/13,¹⁰⁷ a/01371/13,¹⁰⁸ a/01376/13,¹⁰⁹ a/01396/13¹¹⁰ and a/01720/13¹¹¹ only provide a letter from local authorities. Applicants a/00261/13,¹¹² a/00574/13,¹¹³ a/01358/13,¹¹⁴ a/01474/13¹¹⁵ and a/01499/13¹¹⁶ provide an *attestation*, applicant a/00720/13¹¹⁷ provides an *employee card*, applicants a/00845/13¹¹⁸ and a/01395/13¹¹⁹ provide a *student card*, applicants a/01377/13¹²⁰ and a/01385/13¹²¹ provide an *end-of-course certificate* and applicants a/01468/13¹²² and a/01506/13¹²³ provide a *census form*. All identification documents provided are of the type listed in the Registry's report on proof of identity documents available in the DRC as referred to by the Single Judge to establish an applicant's identity.¹²⁴

32. In its report, the VPRS noted several inconsistencies between the application forms and the documents submitted as proof of identity and/or kinship.¹²⁵ For instance, there are slight variations in: (i) the spelling of the names of applicants a/00006/13,¹²⁶ a/00336/13,¹²⁷ a/00611/13,¹²⁸ a/00731/13,¹²⁹ a/00786/13,¹³⁰ a/00809/13,¹³¹

¹⁰⁴ ICC-01/04-02/06-200-Conf-AnxB-115-Red.

¹⁰⁵ ICC-01/04-02/06-200-Conf-AnxB-117-Red.

¹⁰⁶ ICC-01/04-02/06-200-Conf-AnxB-119-Red.

¹⁰⁷ ICC-01/04-02/06-200-Conf-AnxB-122-Red.

¹⁰⁸ ICC-01/04-02/06-200-Conf-AnxB-123-Red.

¹⁰⁹ ICC-01/04-02/06-200-Conf-AnxB-128-Red.

¹¹⁰ ICC-01/04-02/06-200-Conf-AnxB-145-Red.

¹¹¹ ICC-01/04-02/06-200-Conf-AnxB-198-Red.

¹¹² ICC-01/04-02/06-200-Conf-AnxB-8-Red.

¹¹³ ICC-01/04-02/06-200-Conf-AnxB-24-Red.

¹¹⁴ ICC-01/04-02/06-200-Conf-AnxB-111-Red.

¹¹⁵ ICC-01/04-02/06-200-Conf-AnxB-158-Red.

¹¹⁶ ICC-01/04-02/06-200-Conf-AnxB-179-Red.

¹¹⁷ ICC-01/04-02/06-200-Conf-AnxB-41-Red.

¹¹⁸ ICC-01/04-02/06-200-Conf-AnxB-56-Red.

¹¹⁹ ICC-01/04-02/06-200-Conf-AnxB-144-Red.

¹²⁰ ICC-01/04-02/06-200-Conf-AnxB-129-Red.

¹²¹ ICC-01/04-02/06-200-Conf-AnxB-137-Red.

¹²² ICC-01/04-02/06-200-Conf-AnxB-153-Red.

¹²³ ICC-01/04-02/06-200-Conf-AnxB-185-Red.

¹²⁴ ICC-01/04-02/06-67, para. 30, point (V) referring to ICC-01/04-02/06-53-Anx1.

¹²⁵ ICC-01/04-02/06-200-Conf-AnxA.

¹²⁶ ICC-01/04-02/06-200-Conf-AnxB-1-Red.

¹²⁷ ICC-01/04-02/06-200-Conf-AnxB-16-Red.

¹²⁸ ICC-01/04-02/06-200-Conf-AnxB-28-Red.

¹²⁹ ICC-01/04-02/06-200-Conf-AnxB-42-Red.

¹³⁰ ICC-01/04-02/06-200-Conf-AnxB-51-Red.

¹³¹ ICC-01/04-02/06-200-Conf-AnxB-54-Red.

a/01335/13,¹³² a/01341/13,¹³³ a/01348/13,¹³⁴ a/01376/13,¹³⁵ a/01383/13,¹³⁶ a/01384/13,¹³⁷ a/01396/13,¹³⁸ a/01464/13,¹³⁹ a/01481/13,¹⁴⁰ a/01486/13,¹⁴¹ a/01490/13,¹⁴² a/01498/13,¹⁴³ a/01502/13¹⁴⁴ and a/01715/13¹⁴⁵; (ii) the spelling of the names of family members of applicants a/01347/13,¹⁴⁶ a/01353/13¹⁴⁷ and a/01471/13¹⁴⁸; and (iii) the date of birth or age of applicants a/00892/13,¹⁴⁹ a/01325/13,¹⁵⁰ a/01345/13,¹⁵¹ a/01348/13,¹⁵² a/01350/13,¹⁵³ a/01356/13,¹⁵⁴ a/01376/13,¹⁵⁵ a/01384/13,¹⁵⁶ a/01717/13,¹⁵⁷ a/01724/13¹⁵⁸ and a/01725/13.¹⁵⁹ The Prosecution does not oppose the VPRS's conclusion that these are minor discrepancies caused by transcription or copying errors and that the identity and kinship are sufficiently established for these applicants.

33. The Prosecution notes that VPRS does not specify whether applicants a/00241/13,¹⁶⁰ a/00264/13,¹⁶¹ a/00298/13,¹⁶² a/00314/13,¹⁶³ a/00323/13,¹⁶⁴ a/00324/13,¹⁶⁵

¹³² ICC-01/04-02/06-200-Conf-AnxB-88-Red.
¹³³ ICC-01/04-02/06-200-Conf-AnxB-94-Red.
¹³⁴ ICC-01/04-02/06-200-Conf-AnxB-101-Red.
¹³⁵ ICC-01/04-02/06-200-Conf-AnxB-128-Red.
¹³⁶ ICC-01/04-02/06-200-Conf-AnxB-135-Red.
¹³⁷ ICC-01/04-02/06-200-Conf-AnxB-136-Red.
¹³⁸ ICC-01/04-02/06-200-Conf-AnxB-145-Red.
¹³⁹ ICC-01/04-02/06-200-Conf-AnxB-149-Red.
¹⁴⁰ ICC-01/04-02/06-200-Conf-AnxB-165-Red.
¹⁴¹ ICC-01/04-02/06-200-Conf-AnxB-167-Red.
¹⁴² ICC-01/04-02/06-200-Conf-AnxB-171-Red.
¹⁴³ ICC-01/04-02/06-200-Conf-AnxB-178-Red.
¹⁴⁴ ICC-01/04-02/06-200-Conf-AnxB-182-Red.
¹⁴⁵ ICC-01/04-02/06-200-Conf-AnxB-193-Red.
¹⁴⁶ ICC-01/04-02/06-200-Conf-AnxB-100-Red.
¹⁴⁷ ICC-01/04-02/06-200-Conf-AnxB-106-Red.
¹⁴⁸ ICC-01/04-02/06-200-Conf-AnxB-155-Red.
¹⁴⁹ ICC-01/04-02/06-200-Conf-AnxB-59-Red.
¹⁵⁰ ICC-01/04-02/06-200-Conf-AnxB-79-Red.
¹⁵¹ ICC-01/04-02/06-200-Conf-AnxB-98-Red.
¹⁵² ICC-01/04-02/06-200-Conf-AnxB-101-Red.
¹⁵³ ICC-01/04-02/06-200-Conf-AnxB-103-Red.
¹⁵⁴ ICC-01/04-02/06-200-Conf-AnxB-109-Red.
¹⁵⁵ ICC-01/04-02/06-200-Conf-AnxB-128-Red.
¹⁵⁶ ICC-01/04-02/06-200-Conf-AnxB-136-Red.
¹⁵⁷ ICC-01/04-02/06-200-Conf-AnxB-195-Red.
¹⁵⁸ ICC-01/04-02/06-200-Conf-AnxB-202-Red.
¹⁵⁹ ICC-01/04-02/06-200-Conf-AnxB-203-Red.
¹⁶⁰ ICC-01/04-02/06-200-Conf-AnxB-7-Red.
¹⁶¹ ICC-01/04-02/06-200-Conf-AnxB-9-Red.
¹⁶² ICC-01/04-02/06-200-Conf-AnxB-11-Red.
¹⁶³ ICC-01/04-02/06-200-Conf-AnxB-12-Red.
¹⁶⁴ ICC-01/04-02/06-200-Conf-AnxB-13-Red.
¹⁶⁵ ICC-01/04-02/06-200-Conf-AnxB-14-Red.

a/00326/13,¹⁶⁶ a/00336/13,¹⁶⁷ a/00346/13,¹⁶⁸ a/00473/13,¹⁶⁹ a/01507/13,¹⁷⁰ a/01508/13¹⁷¹ and a/01510/13¹⁷² provided documents establishing the identities of, and the kinship between, the applicants and their deceased relatives. Given that the Prosecution does not have access to the supporting documentation, it defers to the Single Judge's determination on the consistency of such allegations with the information provided in the application forms and on the impact of the missing data on the applications. The Prosecution submits that should the absence of certain data require further clarification, the applicants should be requested to submit further documents in order to establish their relatives' identity and kinship.

34. The VPRS also noted miscellaneous missing administrative data in the application forms or in the letters from local authorities submitted by applicants a/00121/13,¹⁷³ a/00199/13,¹⁷⁴ a/00241/13,¹⁷⁵ a/00261/13,¹⁷⁶ a/00560/13,¹⁷⁷ a/00574/13,¹⁷⁸ a/00713/13,¹⁷⁹ a/00714/13,¹⁸⁰ a/00715/13,¹⁸¹ a/00736/13,¹⁸² a/00778/13,¹⁸³ a/00995/13,¹⁸⁴ a/01090/13,¹⁸⁵ a/01328/13,¹⁸⁶ a/01334/13,¹⁸⁷ a/01335/13,¹⁸⁸ a/01353/13,¹⁸⁹ a/01354/13,¹⁹⁰

¹⁶⁶ ICC-01/04-02/06-200-Conf-AnxB-15-Red.
¹⁶⁷ ICC-01/04-02/06-200-Conf-AnxB-16-Red.
¹⁶⁸ ICC-01/04-02/06-200-Conf-AnxB-17-Red.
¹⁶⁹ ICC-01/04-02/06-200-Conf-AnxB-20-Red.
¹⁷⁰ ICC-01/04-02/06-200-Conf-AnxB-186-Red.
¹⁷¹ ICC-01/04-02/06-200-Conf-AnxB-187-Red.
¹⁷² ICC-01/04-02/06-200-Conf-AnxB-189-Red.
¹⁷³ ICC-01/04-02/06-200-Conf-AnxB-4-Red.
¹⁷⁴ ICC-01/04-02/06-200-Conf-AnxB-6-Red.
¹⁷⁵ ICC-01/04-02/06-200-Conf-AnxB-7-Red.
¹⁷⁶ ICC-01/04-02/06-200-Conf-AnxB-8-Red.
¹⁷⁷ ICC-01/04-02/06-200-Conf-AnxB-21-Red.
¹⁷⁸ ICC-01/04-02/06-200-Conf-AnxB-24-Red.
¹⁷⁹ ICC-01/04-02/06-200-Conf-AnxB-38-Red.
¹⁸⁰ ICC-01/04-02/06-200-Conf-AnxB-39-Red.
¹⁸¹ ICC-01/04-02/06-200-Conf-AnxB-40-Red.
¹⁸² ICC-01/04-02/06-200-Conf-AnxB-44-Red.
¹⁸³ ICC-01/04-02/06-200-Conf-AnxB-47-Red.
¹⁸⁴ ICC-01/04-02/06-200-Conf-AnxB-63-Red.
¹⁸⁵ ICC-01/04-02/06-200-Conf-AnxB-67-Red.
¹⁸⁶ ICC-01/04-02/06-200-Conf-AnxB-81-Red.
¹⁸⁷ ICC-01/04-02/06-200-Conf-AnxB-87-Red.
¹⁸⁸ ICC-01/04-02/06-200-Conf-AnxB-88-Red.
¹⁸⁹ ICC-01/04-02/06-200-Conf-AnxB-106-Red.
¹⁹⁰ ICC-01/04-02/06-200-Conf-AnxB-107-Red.

a/01355/13,¹⁹¹ a/01361/13,¹⁹² a/01362/13,¹⁹³ a/01364/13,¹⁹⁴ a/01366/13,¹⁹⁵ a/01367/13,¹⁹⁶
 a/01368/13,¹⁹⁷ a/01369/13,¹⁹⁸ a/01370/13,¹⁹⁹ a/01371/13,²⁰⁰ a/01372/13,²⁰¹ a/01384/13,²⁰²
 a/01386/13,²⁰³ a/01387/13,²⁰⁴ a/01393/13,²⁰⁵ a/01464/13,²⁰⁶ a/01474/13,²⁰⁷ a/01510/13²⁰⁸
 and a/01513/13.²⁰⁹ Given that the Prosecution does not have access to the
 supporting documentation, it defers to the Single Judge's determination on the
 consistency of such documentation with the information provided in the
 application forms and on the impact of the missing data on the applications. The
 Prosecution submits that should the absence of certain data require further
 clarification, the applicants should be requested to submit further information in
 order to establish their identity and kinship.

Conclusion

35. The Prosecution submits that 202 applicants meet the requirements under article
 68(3) to participate as victims in the pre-trial proceedings in this case, provided
 that the Single Judge is satisfied that the attached identity documentation
 sufficiently proves their identity and kinship.

¹⁹¹ ICC-01/04-02/06-200-Conf-AnxB-108-Red.
¹⁹² ICC-01/04-02/06-200-Conf-AnxB-114-Red.
¹⁹³ ICC-01/04-02/06-200-Conf-AnxB-115-Red.
¹⁹⁴ ICC-01/04-02/06-200-Conf-AnxB-117-Red.
¹⁹⁵ ICC-01/04-02/06-200-Conf-AnxB-118-Red.
¹⁹⁶ ICC-01/04-02/06-200-Conf-AnxB-119-Red.
¹⁹⁷ ICC-01/04-02/06-200-Conf-AnxB-120-Red.
¹⁹⁸ ICC-01/04-02/06-200-Conf-AnxB-121-Red.
¹⁹⁹ ICC-01/04-02/06-200-Conf-AnxB-122-Red.
²⁰⁰ ICC-01/04-02/06-200-Conf-AnxB-123-Red.
²⁰¹ ICC-01/04-02/06-200-Conf-AnxB-124-Red.
²⁰² ICC-01/04-02/06-200-Conf-AnxB-136-Red.
²⁰³ ICC-01/04-02/06-200-Conf-AnxB-138-Red.
²⁰⁴ ICC-01/04-02/06-200-Conf-AnxB-139-Red.
²⁰⁵ ICC-01/04-02/06-200-Conf-AnxB-142-Red.
²⁰⁶ ICC-01/04-02/06-200-Conf-AnxB-149-Red.
²⁰⁷ ICC-01/04-02/06-200-Conf-AnxB-158-Red.
²⁰⁸ ICC-01/04-02/06-200-Conf-AnxB-189-Red.
²⁰⁹ ICC-01/04-02/06-200-Conf-AnxB-190-Red.

36. The Prosecution requests that applicant a/01289/13 be instructed to provide supplementary information on the *collectivité* in which he suffered the alleged harm.



Fatou Bensouda, Prosecutor

Dated this 20th Day of January 2014
At The Hague, the Netherlands